

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**TYRONE B. HENDERSON, SR., and  
CAROLYN WITT, on behalf of  
Themselves and All Others Similarly Situated,**

**Plaintiff,**

**v.**

**Civil Action No: 3:14cv82**

**ALLIED BARTON SECURITY  
SERVICES, LLC d/b/a HR Plus,**

**Defendants.**

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF  
JOINT MOTION TO AMEND SCHEDULING ORDER TO EXTEND ALL DEADLINES  
BY TWO WEEKS**

COME NOW the Plaintiffs, Tyrone B. Henderson Sr., and Carolyn Witt, on behalf of themselves and others similarly situated, together with the Defendant, Allied Barton Security Services, LLC d/b/a HR Plus, (together "the Parties") and Pursuant to Fed. R. Civ. P. 16(b)(4), provide this memorandum in support of their joint motion to amend the Agreed Scheduling Order of July 1, 2014, for good cause shown, to extend all deadlines by two weeks. (Doc. 22.). The parties do not seek to extend the discovery period for the purpose of engaging in any new discovery. However, they do seek to continue any conversations regarding disputes and a number of depositions currently set for next week to provide an opportunity to reach a set of stipulations that may obviate the need to bring discovery disputes forward and take the already-scheduled depositions.

### **BACKGROUND**

Plaintiff filed the present action on February 6, 2014. The Court entered an Agreed Class Action Scheduling Order on July 1, 2014. (Doc. 22). The Agreed Scheduling Order requires discovery be completed by September 24, 2014. The parties have been engaged in discovery and have numerous disputes that they have been attempting to resolve through an ongoing meet and confer process provided by the Rules of Civil Procedure and the Local Rules of this Court. Pursuant to the Agreed Scheduling Order, Defendant's Motion for Summary Judgment and Plaintiff's Motion for Class Certification are due no later than October 1, 2014.

While the parties have been working diligently to answer discovery, resolve disputes and narrow the scope of the case through stipulations, they have not yet reached agreement on stipulated facts to be used on the Defendant's Motion for Summary Judgment. The parties believe that they have an opportunity to streamline the case by agreeing on facts that are not in dispute prior to the filing of summary judgment. *See e.g., Thomas v. FTS, USA, LLC.*, 3:13CV825 (E.D.Va. Sept. 5, 2014)(Doc. 35.) The discovery period has not closed. Numerous subpoenas *duces tecum* are still outstanding, and several party witness depositions are set for next week. The Plaintiff has agreed to dismiss one count and clarify Allied Barton Security Services, LLC. d/b/a HR Plus as the proper party defendant.

As a result of open and frank communication between the parties, the parties have jointly arrived at an agreement to request an Amendment of the Scheduling Order to extend all deadlines by two weeks. This short extension will serve the interest of judicial economy streamlining the case and potentially obviating the need for the depositions set for next week or resolution of the outstanding discovery disputes.

The parties propose that all deadlines in this case be extended by two-weeks so that the parties can work to streamline the issues of the case. .

### **Argument**

For these reasons, good cause exists to extend the current deadlines in an effort to streamline the case, obviate depositions, and to resolve discovery disputes that are costly and time consuming. “The good cause provision of Rule 16(b)(4) does not focus on the prejudice to the non-movant or bad faith of the moving party, but rather on the moving party's diligence.” *Reese v. Virginia Intern. Terminals, Inc.*, 286 F.R.D. 282, 285 (E.D.Va. 2012) (citing *Lineras v. Inspiration Plumbing LLC*, 2010 WL 4623940, at \*2 (E.D.Va. Nov.3, 2010)). At the present stage of proceedings, no party has missed a scheduled deadline to put the party’s diligence at issue. The parties’ diligence is in fact evidenced by the instant effort to improve the judicial process for this case. An Amendment to the Scheduling Order to extend the current deadlines by two weeks will not prejudice any party, but it will advance the equities and minimize the hardships of both sides. But most importantly, it will strongly advance the interests of judicial economy. An Agreed Order is being circulated among counsel for original signatures.

Respectfully submitted,

**TYRONE B. HENDERSON, SR. and  
CAROLYN WITT,**  
*on behalf of themselves and  
all others similarly situated,*

By                     /s/                      
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**CERTIFICATE OF SERVICE**

I hereby certify that on September 19, 2014, a true and correct copy of the foregoing was sent via electronic mail and First Class Mail to the following counsel of record:

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